

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-3, 9-10 and 16-17 stand rejected under 35 USC §102(e) over Nishiyama. Claims 4-8, 11-15, 18-20 stand objected to as being dependent upon a rejected base claim. Applicants appreciate the indication of allowable subject matter, but respectfully disagree with the outstanding rejections. While Applicants agree that the subject matter identified in the objected to claims is allowable over the art of record, the rejected claims have been misread onto the Nishiyama disclosure. There should be no dispute that the MPEP requires that a reference disclose exactly what an Applicant has claimed in order to support a proper §102 rejection. In this case, a subtle aspect of Applicants' claimed invention has been overlooked. Applicants' claims inherently require that the rail pressure be sensed at least a predetermined time that is sufficient to determine an injection event control signal that is based at least in part on the sensed rail pressure. Nishiyama fails to disclose this methodology. Applicants should not have to include a step of "determining a predetermined time" in order to have that inherent feature of the claim considered. The Office Action even implicitly acknowledges that Nishiyama fails to explicitly disclose what Applicants have claimed. Applicants respectfully assert that the predetermined time aspect of the claimed invention is neither inherent nor implicit in the Nishiyama disclosure. Therefore, Applicants respectfully request that the outstanding §102(e) rejections be withdrawn.

It is the inherent features of Applicants claims that are absent from the cited references of record. In particular, inherent in Applicants' claimed invention is a determination of how much time it takes to determine fuel injector control signals that are a function of rail pressure and whatever else, set up the respective injector electric drive circuits, and finally send the signal to the respective fuel injector, in order to practice the claimed invention. In other words, Applicants respectfully assert that there must be some expressed acknowledgement in the art that determination and eventual delivery of injector control signals takes a finite amount of time, and that a rail pressure sensing event for calculating those injector control signals must intentionally be made in advance of the predetermined time. Applicants respectfully assert that there is no evidence of record that anyone, besides Applicants, have intentionally sensed pressure after control signal for a previous injection event but with adequate time before a subsequent injection event to determine control signals using the best available rail pressure estimate for accurately

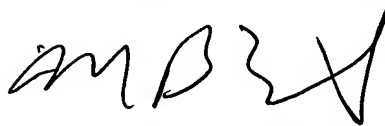
performing a desired fuel injection event. Again, Applicants respectfully assert that Nishiyama fails to disclose exactly what Applicants have claimed, and hence can not support a proper §102(e) rejection against any of Applicants' claims. Therefore, Applicants respectfully request that the outstanding rejections based upon Nishiyama be withdrawn.

In effort to better make clear what Applicants claimed predetermined time element means in the explicitly in the claim itself rather than relying upon what it inherently means, Applicants have amended independent claims 1 and 9 to make it clear that the predetermined time is an amount of time that is sufficient to determine an injector control signal and set up an injector driver with the injector control signal. In addition, all of the independent claims have been amended to make it clear that the succeeding injection event control signal is based at least in part on a signal rail pressure value, which is the sensed rail pressure. There should be no dispute that Nishiyama teaches a rail pressure averaging, upon which Applicants claims can not properly be read, because Nishiyama can not be said to show exactly what Applicants have claimed, Applicants respectfully request that the outstanding §102(e) rejections based upon Nishiyama be withdrawn.

Several of the objected to claims have been amended into independent form. A check in the amount of \$602.00 is attached hereto to cover the excess independent claim fees, the Director is authorized to charge any underpayment or credit any overpayment to deposit account number 500226.

This application is now believed to be in condition for allowance of claims 1-20. If the examiner believes that some minor additional clarification would put this application in even better condition for allowance, the examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'MB 3/4' with a large checkmark-like flourish at the end.

Michael B. McNeil
Reg. No. 35,949